BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

GARY A. BAILEY)
Claimant)
VS.)
) Docket No. 248,869
HALLMARK CARDS, INC.)
Respondent)
AND)
)
ROYAL INSURANCE COMPANY)
Insurance Carrier)

ORDER

The respondent appealed Administrative Law Judge Brad E. Avery's January 27, 2000, preliminary hearing Order for Medical Treatment.

Issues

Claimant injured his left shoulder on October 1, 1999, when he picked up a box of cards at work. Respondent provided medical treatment for the left shoulder injury through Craig L. Vosburgh, M.D. Claimant testified his left shoulder remained symptomatic, but Dr. Vosburgh told him that he had no further treatment to offer. Claimant requested and the Administrative Law Judge granted claimant medical treatment with orthopedic surgeon C. Craig Satterlee, M.D., a shoulder specialist located in Kansas City, Missouri.

Respondent appeals and contends the Administrative Law Judge exceeded his jurisdiction and authority when he entered the preliminary hearing Order that authorized Dr. C. Craig Satterlee to treat claimant's left shoulder injury.

In contrast, the claimant requests the Appeals Board to dismiss respondent's application for review as the Appeals Board does not have jurisdiction to review the Administrative Law Judge's preliminary hearing Order for Medical Treatment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the preliminary hearing record and considering the parties' briefs, the Appeals Board finds as follows:

The only issue raised before the Administrative Law Judge was claimant's request for orthopedic surgeon Dr. C. Craig Satterlee to provide medical treatment for claimant's left shoulder injury. The Appeals Board has, on numerous other occasions, found that the preliminary hearing statute gives the administrative law judge authority to grant or deny the request for medical compensation pending a full hearing on the claim. Thus, the Administrative Law Judge did not exceed his jurisdiction and the Appeals Board does not have jurisdiction to review the preliminary hearing Order for Medical Treatment.

WHEREFORE, the Appeals Board finds and concludes respondent's appeal should be dismissed as the Appeals Board is without jurisdiction to consider the issue raised by the respondent, and Administrative Law Judge Brad E. Avery's January 27, 2000, preliminary hearing Order for Medical Treatment should, and does, remain in effect as originally entered.

IT IS SO ORDERED.
Dated this day of May 2000.
BOARD MEMBER

c: John J. Bryan, Topeka, KS Gregory D. Worth, Lenexa, KS Brad E. Avery, Administrative Law Judge Philip S. Harness, Director

¹See K.S.A. 1999 Supp. 44-534a.